## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

FEB 1 2011

JULIA C. DUDLEY, CLERK
BY:

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DANIEL RYAN JESSEE,	) Ciril Assist No. 7:10ev:00224
Petitioner,	) Civil Action No. 7:10cv00224
v.	) ) <u>ORDER</u> )
GENE JOHNSON,	) ) ) Doubles James C. Turk
Respondent.	<ul> <li>By: Hon. James C. Turk</li> <li>Senior United States District Judge</li> </ul>

In accordance with the Memorandum Opinion entered this day, it is hereby

## ADJUDGED AND ORDERED

that Respondent's Motion to Dismiss (Dkt. No. 11) is **GRANTED**, and the Petitioner's 28 U.S.C. § 2254 motion (Dkt. No. 1) is **DENIED**. Further, Petitioner is advised that a Certificate of Appealability is **DENIED**.

The Clerk of Court is directed to strike the case from the active docket of the Court, and send copies of this Final Order and accompanying Memorandum Opinion to Petitioner and counsel of record for Respondent.

ENTER: This \_\_// day of February, 2011.

Senior United States District Judge